

CHAPTER VII

NON-TAX RECEIPTS

7.1 Results of audit

We reported short levy, loss of revenue etc. amounting to ₹ 253.60 crore in seven observations as mentioned in **Table 7.1** on the basis of test check of the records relating to non-tax receipts conducted during the year 2014-15:

Table No. 7.1

(₹ in crore)			
Sr. No.	Category	No. of observations	Amount
1	Performance Audit on “Systems and Controls in collection of Mineral Receipts”	1	247.51
2	Loss of revenue due to deterioration in transit/ in sale/ in resale/ due to non-extraction/ non-lifting of material other than bamboo	6	6.09
Total		7	253.60

In response to our audit observations pointed out during the year 2014-15 as well as earlier years, the concerned Department accepted underassessment, short levy, etc. and recovered ₹ 1.31 crore in one observation pertaining to earlier years.

A Performance Audit on “**Systems and Controls in collection of Mineral Receipts**” involving ₹ 247.51 crore is included in the succeeding paragraph.

7.2 Performance Audit on “Systems and Controls in collection of Mineral Receipts”

Highlights

- Scrutiny of records revealed that in case of major minerals ‘Bauxite’ and ‘Limestone’, 865 applications of PL and 269 of ML were pending for disposal hampering the process of establishment of new area of mining and augmenting the state revenue.

(Paragraph 7.2.2.1)

- We noticed that in five cases the lessees had extracted mineral either in excess of the Mining Plan or without the approval of Mining Scheme. However, action for violations relating to extraction of 4.03 lakh MT mineral valued at ₹ 6.23 crore without any lawful authority was not taken.

(Paragraph 7.2.2.3(a))

- We found that there was no sharing of information between the DGM, MoEF and IBM (GOI) to trace the excess extraction/production of the mineral. The quantity mentioned in EC was at variance with the quantity mentioned in the scheme of mining and the quantity actually extracted by the lessees.

(Paragraph 7.2.2.3(b))

- In Kolhapur, two lessees provided false information for obtaining EC in December 2006. The leases were cancelled by the MoEF in August 2012 and November 2013. The quantity of bauxite extracted during illegal occupation by both lessee was 26.97 lakh MT valued ₹ 30.02 crore. The same was not recovered by the State Government in terms of Section 21(5) of MMDR Act.

(Paragraph 7.2.2.4)

- Scrutiny of Inspection Reports in DGM/Dy. Director, Kolhapur revealed two cases of excavation of 1.41 lakh MT of Bauxite outside the lease area. The lessees were liable to pay the penalty at ₹ 5.80 crore.

(Paragraph 7.2.2.5)

- Six lessees had transferred lease right to an agent through irrevocable Power of Attorney and Development Agreement without approval of Government and agent extracted 32.97 lakh MT of mineral valued ₹ 60.83 crore without lawful authority.

(Paragraph 7.2.2.6)

- The short fall in collection of royalty of ₹ 6.54 crore was noticed in case of seven lessees. The short fall was due to lack of efforts to scrutinise returns submitted by lessee.

(Paragraph 7.2.2.7(a))

- The GoM did not have a centralized data about quantum of minor mineral (other than sand) and location thereof as a result the management of the minor mineral like precious/semi precious stones, hill cutting, measurement of quarry leases etc.; could not be effectively monitored.

(Paragraphs 7.2.3.1)

- Though, the rates of royalty of the ordinary earth were revised from February 2010, the departments responsible for collection of the royalty continued to recover the royalty at pre revised rates, besides the collecting departments either did not credit royalty at all or credited less than that collected into the Government account. This resulted in short/non-recovery of royalty of ₹ 7.74 crore.

(Paragraph 7.2.3.2)

- The lease rent of ₹ 12.90 crore for the year 2014 in case of 28 leases of minor mineral and 13 leases of major mineral was not levied on Government land leased out for mining activities.

(Paragraph 7.2.3.4)

- We noticed that during 2010-14 out of 3,096 sand ghats identified for auction, 1,598 sand ghats having an upset price of ₹ 994.90 crore could not be auctioned.

(Paragraph 7.2.3.5(b))

- In Kolhapur and Nagpur, 122 sand ghats involving revenue of ₹ 24.88 crore were not put to auction during 2012-14 due to non-receipt of EC.
- In Thane, nine sand ghats though marked for extraction of sand could not be auctioned during 2012-14 due to non-receipt of a report on Environment Impact Assessment (EIA). The ghats had the potential of generating revenue to the extent of ₹ 72.25 crore.

(Paragraph 7.2.3.5(c))

- Lack of information sharing between Revenue Department, Regional Transport Office and Police in referring the cases of illegal transportation of minerals was noticed.

(Paragraph 7.2.3.7)

- Stamp duty of ₹ 31.84 lakh was neither levied nor paid on the bid amount of ₹ 106.13 crore in respect of auction of 448 sand ghats during 2012-14. In case of minor minerals, stamp duty and registration fees of ₹ 48.78 lakh was not levied by the department.

(Paragraph 7.2.3.9)

- In Thane, permits for extraction of sand or sand mix clay of 3.48 lakh brass on payment of royalty of ₹ 20.56 crore was allowed without EIA study, thus, environment impact of such huge extraction was not assessed.

(Paragraph 7.2.3.10(a))

7.2.1 Introduction

Mineral are valuable natural resources which are finite and non-renewable. Mineral exploration and development is closely linked with development of economy of the State. However, as it intervenes with the environment and social structure, a harmony and balance is to be maintained between conservation and extraction in the interest of sustainable development. The responsibility for the management of mineral resources is shared between the Central and State Government.

Minerals are classified as major minerals (coal, bauxite, limestone, iron ore etc.) and minor minerals (sand, stone, murum, ordinary earth etc.). The Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act) and the rules framed there under govern the regulation of mines and development of major minerals.

Legislations for exploitation of minor minerals have been delegated to the State. There were separate rules for regulation of minor mineral i.e. Bombay Minor Mineral Extraction Rule, 1955, Minor Mineral Extraction (Vidarbha Region) Rule, 1966 and Rules Regulating the Working of Minor Minerals, 1954 (Aurangabad Division). However, in supersession of the above rules, State Government framed Maharashtra Minor Mineral Extraction (Development and Regulation) Rules, 2013 effective from 24th October 2013 that is applicable uniformly throughout the State.

In Maharashtra, revenue receipt from the mines and mineral is the highest non-tax revenue after interest receipts. The receipts are mostly in nature of rent, royalty, fees, fines and penalties etc. The State Government has framed the 'State Mineral Policy, 1999' in pursuance of National Mineral Policy, 1993. Thereafter, National Mineral Policy of 2008 was framed by Government of India in March 2008 but State Government has not framed any other policy in pursuance of this mineral policy.

Organizational set-up

At the apex level, the administration of the relevant Acts and the Rules framed there under is entrusted to the Principal Secretary, Industries, Energy and Labour Department (IE&LD) for major minerals. The Director, Geology and Mining (DGM), Nagpur is the State level head of the Directorate of Geology and Mining and is assisted by four regional Deputy Directors and District Mining Officers (DMOs).

The Principal Secretary, Revenue and Forest Department (R&FD) is entrusted with the administration of rules governing the management of minor minerals. He is assisted by the District Collector, Sub Divisional Officers (SDOs) and Tahsildars who grant mineral concessions by way of permits for mining/quarrying of minor minerals.

Indian Bureau of Mines (IBM) promotes systematic and scientific development of mineral resources of the country through regulatory inspections of mines, approval of mining plan and environment management plan to ensure minimal adverse impact on environment.

Audit Criteria

The Performance Audit was based on following audit criteria:

- Mines and Minerals (Development and Regulation) Act, 1957;
- Mineral Concession Rules, 1960;
- Mineral Conservation and Development Rules, 1988;
- State Mineral Policy, 1999;
- Bombay Minor Mineral Extraction Rules, 1955;
- Minor Mineral Extraction (Vidarbha Region) Rules, 1966;
- Maharashtra Minor Mineral Extraction (Development and Regulation) Rules 2013;
- Maharashtra Land Revenue Code, 1966;
- Central and State Government's resolutions, orders and notifications issued in this regard, from time to time.

Audit Objectives

Audit was conducted with a view to ascertain that:

- Adequate rules and procedures were put in place for augmentation of receipts from minerals.
- Levy and collection of mineral receipts was done in accordance with the Acts, Rules and Orders issued from time to time.
- A system was in place for timely detection of unauthorized extraction and to prevent illegal transportation of minerals.

Scope and Methodology

Coal, Limestone and Bauxite are the highest contributor of revenue in the major mineral. Of these, Performance Audit of Allocation of Coal Blocks and Augmentation of Coal Production (Ministry of Coal) was conducted and included in the C&AG's Audit Report No. 7 of 2012-13. As such coal was excluded from the scope of audit. The Performance Audit (PA) was conducted between February 2015 and July 2015 covering the periods from 2009-10 to 2013-14.

Audit selected nine districts¹ out of the 36 districts of the State for conducting audit. The districts were selected on the basis of revenue realised by each district and on the basis of statistical sampling. In addition to this audit obtained information from Indian Bureau of Mines (IBM), concerned Regional Transport Offices (RTOs) and cross checked the same with the records of the Department. Environmental and other issues noticed in extraction of mineral and grant of lease have also been commented at appropriate places.

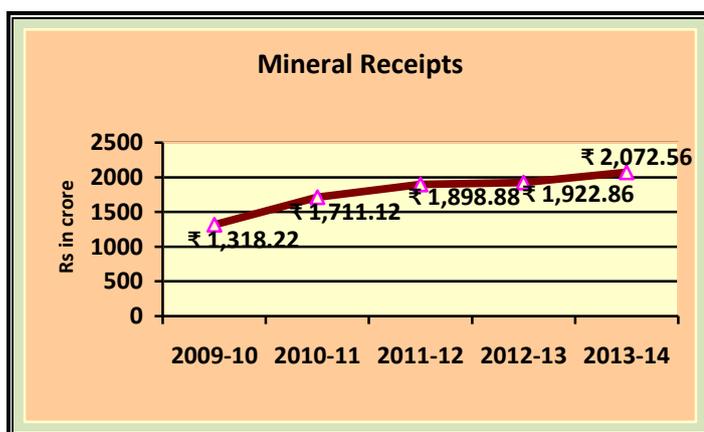
¹ Chandrapur, Kolhapur, Nagpur, Nasik, Pune, Raigad, Satara, Thane and Yavatmal

Acknowledgement

At the outset, an entry conference was held with Principal Secretary, IE&LD and Principal Secretary, R&FD in March/April 2015, wherein the audit objectives, scope and methodology to be adopted in conducting the audit were discussed with the departments. The Draft PA was forwarded to the concerned Principal Secretary, IE&LD and Principal Secretary, R&FD of the Government in August 2015. An exit conference was held in November 2015 with Principal Secretary, IE&LD and Principal Secretary, R&FD to discuss the audit findings and recommendations. Replies received during the exit conference and at other point of time have been included and commented in the relevant paragraphs.

7.2.1.1 Receipts from mineral

The receipts from major and minor minerals during 2013-14 and its corresponding figures from 2009-10 are indicated in the following graph.



Source:- Finance Accounts during the year 2009-10 to 2013-14.

It would be seen from the above that there was gradual increase in receipts of the mineral except during 2010-11, where the sharp rise was due to increase in rates of royalty for minor mineral from February 2010.

7.2.1.2 Need for timely reconciliation of the Accounts by the Department

We noticed that the figures available with the Department were at variance with the audited finance account finalised by Principal Accountant General (A&E)-I, Mumbai, as detailed in **Table 7.2.1.2**.

Table 7.2.1.2

(₹ in crore)				
Year	Actual receipts as per State Finance Account	Receipt as per IE&LD		
		Total of Major and Minor Mineral	Major Mineral	Minor Mineral
1	2	3	4	5
2009-10	1,318.22	1,394.36	631.17	763.19
2010-11	1,711.12	1,716.37	664.68	1,051.69
2011-12	1,898.88	1,943.22	698.63	1,244.59
2012-13	1,922.86	1,937.10	881.73	1,055.37
2013-14	2,072.56	1,960.29	976.94	983.35
Total	8,923.64	8,951.34	3,853.15	5,098.19

(Source: Information from Finance Accounts and DGM)

The reasons for the variations could not be ascertained as the department was not conducting a reconciliation of its accounts with the figures available with the PAG (A&E)-I, Mumbai.

In the exit conference the Principal Secretary, IE&LD accepted the facts and stated that efforts will be made to carry out reconciliation of figures online so as to avoid difference between the figures of finance account and figures reported by the Department.

It is recommended that the Department may consider **reconciling the figures at regular interval of the time so that the variations are detected well in time and the accounts prepared or figures supplied by the Department present the true picture of the receipts of Government account.**

7.2.1.3 Arrears of revenue

As per information furnished by the DGM the arrears of revenue is shown in **Table 7.2.1.3 (a).**

Table 7.2.1.3 (a)

(₹ in lakh)				
Year	Opening balance of arrears		Closing balance of arrears	
	Major	Minor	Major	Minor
2009-10	-	-	120.19	8,352.00
2010-11	120.19	8,352.00	122.19	16,195.11
2011-12	122.19	16,195.11	250.24	16,459.42
2012-13	250.24	16,459.42	1,235.45	16,464.62
2013-14	1,235.45	16,464.62	1,232.34	15,850.23

It would be seen from above that the amount of arrears for major minerals have risen by 10.25 times and for minor minerals by 1.9 times during the last five years. The stages at which the arrears are pending are given in **Table 7.2.1.3 (b).**

Table 7.2.1.3 (b)

Sr. No.	Stage at which the Arrears are pending	(₹ in lakh)		
		Arrears		Total Arrears
		Major	Minor	
1	Recovery under stay/pending with the court or the Government	0.37	4,381.53	4,381.90
2	Companies in liquidation	0.55	1.72	2.27
3	Where about of defaulters not known	0.66	2.34	3.00
4	Revenue Recovery Certificates (RRCs) sent to Collectors of other state for recovery	14.72	82.27	96.99
5	Intimations sent to Collectors within the State for issue of RRCs	1,003.93	254.26	1,258.19
6	Recoveries in progress including RRC cases	212.11	11,128.11	11,340.22
Total		1,232.34	15,850.23	17,082.57

It would be seen from above that the major portion of the minor mineral arrears was either pending in courts (27.64 per cent) or was pending with Collectors (72.33 per cent). While in the case of major minerals the major portion of the arrears (99.87 per cent) was pending with Collectors. There was enough scope of recovering the amounts pending collection with Collectors in the form of RRC's. For instance in Chandrapur, a lessee² defaulted in payment of royalty payable on limestone from 2009. The Department had not taken any action for recovery of amount till May 2013, in which RRC was issued for ₹ 9.87 crore. Thereafter, no further steps were taken for recovery of the amount.

In another case of Yavatmal district, recovery of ₹ 91.36 lakh was due from a sand ghat allottee³ for failure to comply the condition of allotment of sand ghat (2013-14) made during auction. Collector, Yavatmal issued notice (January 2015) after a gap of one year to the sand ghat allottee. Thereafter no further steps were taken for recovery of the amount.

The Government may consider **instructing the concerned Collectorates to make extra efforts for early disposal of at least those cases that are pending with them, as with the passage of time the chances of their collection became remote.**

The system and the compliance deficiencies in respect of major minerals are discussed in the following paragraphs.

² Murli Industries Ltd., Chandrapur

³ Shri Raju Sawalakhe, Sand Ghat: mouze Shirfuli and mouze Rahur, Taluka Mahagaon, Yavatmal (2013-14)

7.2.2 Major Minerals – Bauxite and Limestone

7.2.2.1 Disposal of applications for grant of licences and leases

Rule 63A of MC Rules, 1960 provides for disposal of the Prospecting Licence⁴ (PL) application and Mining Lease⁵ (ML) application within nine months and twelve months respectively.

Records in office of DGM, Nagpur and IE&LD, Mantralaya, Mumbai revealed that applications for granting PL and ML were invited by Government of Maharashtra (GoM) vide notifications published during 2008-09 to 2011-12. The Department had issued notification for grant of PL and ML up to 2011-12. The status of applications disposed off in respect of the two selected minerals Limestone and Bauxite are mentioned in **Table 7.2.2.1**.

Table 7.2.2.1

Period	Prospecting Licence		Mining Lease	
	Number of applications received	Number of applications disposed off	Number of applications received	Number of applications disposed off
2008-09	392	44	150	71
2009-10	108	0	71	0
2010-11	97	0	119	0
2011-12	312	0	0	0
Total	909	44	340	71

(Source: DGM, Nagpur)

The huge pendency in disposal of licences and leases indicates that the Department was not serious for grant of licences and leases hampering the process of establishment of new areas of mining and augmenting the state revenue. Exploring the mineral wealth was one of the objectives of the State Mineral Policy, 1999 and due to lack of action on the part of the Department the purpose of this objective was defeated.

In the exit conference, the Principal Secretary, IE&LD stated that the applications were kept pending intentionally in view of proposed changes in the MMDR Act, thereby preventing the possible loss of revenue if applications processed as per existing rules.

7.2.2.2 Renewal of mining leases

Rule 24A(6) of MC Rules, 1960 provides if an application for renewal of a mining lease is not disposed off by the State Government before the date of expiry of the lease, the period of that lease shall be deemed to have been extended by a further period till the State Government passes order thereon.

⁴ "Prospecting Licence" means a licence granted for the purpose of undertaking prospecting operations for the purpose of exploring, locating or proving mineral deposit.

⁵ "Mining Lease" means a lease granted for the purpose of undertaking mining operations, and includes a sub-lease granted for such purpose.

Our scrutiny revealed that lease period of seven leases out of 52 leases of limestone had expired during 2004-10. All the seven lessees had applied for renewal of mining leases between May 2004 and July 2010. However, none of the leases were renewed.

In the exit conference, the Principal Secretary, IE&LD stated that the applications were kept pending intentionally in view of proposed changes in the MMDR Act.

7.2.2.3 Approval of Mining Plan/Scheme of Mining

Under Rule 9 of MCD Rules mining plan is a prerequisite for a mining operation in the state. The mining plans indicate the essential details like the name of mine, owner, norms to be followed during the extraction of the ore, etc. These are approved by IBM. There were total 69 cases of Bauxite and Limestone leases in the three districts test checked. Audit test checked six cases from each district and found that in mining plans of all the 18 leases granted had been approved by the IBM.

Rule 12 of MCD Rules stipulates review of mining plans and submission of scheme of mining for the next five years to the regional controller of mines under the jurisdiction of IBM. Rule 13 of MCD Rules further envisaged that mining operation should be done in accordance with the approved mining plans and scheme of mining and in case violations are noticed then the authorized officer may order suspension of all or any of the mining activities.

(a) Production of minerals in excess of mining plan/without approval of scheme of mining

Mining Plan: We found that in one case of limestone and in one case of bauxite the mineral actually extracted by the lessees was more than that mentioned in the approved mining plan as mentioned in **Table 7.2.2.3 (a)**.

Table 7.2.2.3 (a)

Name of lessee	Year	Quantity as per the approved mining plan (MT)	Actual production (MT)	Excess production (MT)
Adegaon dolomite and limestone mine	2010-11	756	12,748	11,992
Meghare Bauxite mine	2009-10	36,000	59,200	23,200
	2010-11	48,000	56,000	8,000
	2013-14	76,329	79,200	2,871
Total		1,61,085	2,07,148	46,063

Mining Scheme: In three⁶ out of 18 leases test checked, scheme of mining were not found on records. The Department stated that in case of Moolvelas-Hervit-Kudgaon Bauxite Mine and Dandguri-Khujare Bauxite Mine extraction of Bauxite was done without approval of the scheme of mining while in case of Girgaon Bauxite Mine, ex-post facto sanction was obtained. The IBM

⁶ One lease-Girgaon Bauxite Mine and two lease Moolvelas-Hervit-Kudgaon Bauxite mine and Dandguri-Khujare Bauxite mine at DGM level.

stated that in these cases the lessees had not submitted the scheme of mining for the next five years as such the target production for the year 2012-13, 2013-14 could not be given to audit. The details are mentioned in **Table 7.2.2.3 (a)(i)**.

Table 7.2.2.3 (a)(i)

Name of Lessee	Year	Quantity extracted (MT)
Moolvelas-Hervit-Kudgaon Bauxite Mine	2013-14	41,500
Dandguri-Khujare Bauxite Mine	2012-14	99,000
Girgaon Bauxite Mine	2010-12	2,16,330
Total		3,56,830

Thus, the lessees had extracted 4.03 lakh MT mineral valued at ₹ 6.23 crore which could be recovered under Section 21(5) of MMDR Act which stipulates that recovery of the price of mineral along with royalty etc. from any person who raises the mineral without any lawful authority. This escaped the notice of the Department as well as the IBM with the result timely action to prevent excess production could not be taken.

In the exit conference, the Principal Secretary, IE&LD stated that the action for violation of norms would be taken.

(b) Variation in production of minerals as per Environmental Clearance Certificate (EC), Scheme of Mining and actual production

Notification issued under the Environment (Protection) Rules, 1986 by Government of India (GOI) dated 14th September 2006 envisaged requirement of prior EC from the Ministry of Environment and Forest (MoEF) in case of mining of minerals. The EC inter-alia indicates the quantity of the minerals to be extracted from a particular area.

We found that there was no coordination between the DGM, MoEF and IBM (GOI) to fix the ceiling limit of the extraction/production of the mineral to trace the excess production of the mineral. The quantity mentioned in EC was at variance with the quantity mentioned in the scheme of mining and the quantity actually extracted as mentioned in **Table 7.2.2.3 (b)**.

Table 7.2.2.3 (b)

(Quantity in MT)				
Name of lessee	Year	Quantity approved in EC	Quantity actually produced	Quantity approved in scheme of mining
Moolvelas-Hervit-Kudgaon	2009-10	20,472	20,618	1,25,000
	2010-11	20,472	24,000	1,38,000
	2011-12	20,472	64,325	1,51,600
	2012-13	20,472	20,600	1,66,800
Kurvade-Maral Bauxite Mine	2009-10	12,000	37,500	76,000
	2010-11	12,000	1,11,000	78,000
	2011-12	12,000	1,33,000	82,000
	2012-13	12,000	89,800	83,600
	2013-14	12,000	12,450	89,586
Dandguri-Khujare Bauxite Mine	2009-10	18,000	18,500	1,41,000
	2010-11	18,000	48,000	1,95,000
	2011-12	18,000	1,24,300	2,00,000
Total		1,95,888	7,04,093	15,26,586

It would be seen from the above that the actual production was more by 259.44 per cent of EC and 53.88 per cent less than the scheme of mining. The reasons for variations were neither found on records nor given by Department.

IBM stated that EC did not fall under their purview and they were concerned with Mining Plan/Schemes only. Reply from DGM has not been received.

The above facts indicate that there was no sharing of information between the concerned departments to fix a uniform target of extraction of mineral in respect of a mine. The GoM may take up the matter with the GOI for fixation of a uniform target of extraction of the mineral in the benefit of the revenue and the environment.

7.2.2.4 Delay in cancellation of Environmental Clearance

Section 21(5) of the MMDR Act stipulates that recovery of the price of mineral along with royalty etc. from any person who raises the mineral without any lawful authority. As per Supreme Court order⁷ dated 4 August 2006, no mining activity can be allowed within a distance of one kilometer from any national park.

We noticed in Kolhapur district that EC was granted to two⁸ lessees by MoEF in December 2006 for extraction of bauxite ore. The lessees in their documents submitted for obtaining EC to MoEF had mentioned the distance between the national park and the leasing area as more than 10 Km. However,

⁷ Writ petition (civil) no. 202 of 1995

⁸ M/s Swati Minerals and M/s Prakash Anandrao Gaikwad

later MoEF found that the distance between Chandoli National Park boundary and mine lease area was between 800m and 1,600m only and accordingly ECs were cancelled on August 2012 and November 2013.

Though the mining operations were suspended, no action was taken for the mining activities performed/done on false documentations.

Bauxite ore of 26.97 lakh MT valued at ₹ 30.02 crore was extracted during the period of operation. This entire production should have been treated as illegal extraction and the cost of the mineral should have been recovered.

Besides responsibility needs to be fixed on the persons who had accepted the false documents causing damage to the environment.

In the exit conference, the Principal Secretary, IE&LD stated that action to suspend the lease as per rules has been taken.

He further stated that the said extraction does not fit into the definition of illegal mining hence cost of mineral cannot be recovered. Reply of the Department is not correct as the lessees had given false information and as such the mining activities made by them were not legal and should have been declared as illegal and penalty u/s 21 (5) of MMDR, that stipulates recovery of the price of the mineral extracted during illegal operation, should be levied.

A system needs to be framed by the Department to ensure that the particulars furnished in the application or otherwise for grant of lease or in the EC are correct.

7.2.2.5 Raising of mineral beyond the lease area

As per Rule 48(7) of Maharashtra Land Revenue Code, 1966 (MLR Code) any person without any lawful authority extracts, removes, collects, replaces, disposes of any mineral, the State Government shall recover the penalty not exceeding a sum determined at three times the market value of the minerals so extracted, removed, disposed off etc.

Scrutiny of Inspection Reports in DGM/Dy. Director Kolhapur revealed that in (March 2011/April 2014) two⁹ cases, 1.41 lakh MT of Bauxite had been excavated outside the lease area which was illegal. Of these two cases in one case¹⁰ show cause notice was issued to the lessee while in other case no action was found to have been taken. The lessees were liable to pay the penalty at ₹ 5.80¹¹ crore.

In the exit conference, the Principal Secretary, IE&LD stated that action would be taken to recover the amount.

7.2.2.6 Transfer of lease right without the previous approval of Government

As per Rule 37 of MC Rule 1960, the lessee shall not, without the previous consent in writing of the State Government/Central Government assign, sublet, mortgage, or in any other manner, transfer the mining lease, or any

⁹ Meghare Bauxite Mine, Srivardhan and Shekhadi Bauxite Mine

¹⁰ Meghare Bauxite Mine, Srivardhan

¹¹ $1,15,916.40 \times 115 \times 3 = 3,99,91,158$ & $25,147.12 \times 239 \times 3 = 1,80,30,485.04$

right, title or interest therein, or enter into or make any arrangement, contract or understating whereby the lessee will or may be directly or indirectly financed to a substantial extent by, or under which the lessee's operations or undertakings will or may be substantially controlled by any person or body of persons other than the lessee.

Scrutiny of records of lessees in DGM and DMO, Kolhapur district revealed that during November 1994 and February 2006, six lessees in three¹² districts have transferred the lease right to an agent through irrevocable Power of Attorney and Development Agreement (dated 10/11/1994, 21/09/2001, and 26/02/2006) to run and manage the mining business *etc.* There was nothing on record to indicate that the approval of Government was obtained.

The transfer of the lease right without the consent of Government was irregular and thus mining activities conducted by an agent of these lessees was unauthorized. The agent of the lessees extracted 32.97 lakh MT of mineral valued ₹ 60.83 crore without lawful authority which needs to be recovered.

After this was pointed out, DMO, Kolhapur stated (June 2015) that his office was not aware of transfer of lease rights. This indicates that the Department has to strengthen its internal controls to ensure non-reoccurrence of such lapses.

In the exit conference, the Principal Secretary, IE&LD accepted the facts and intimated that action would be taken in the matter.

7.2.2.7 Assessment and collection of Royalty and Rent

Every lessee is required to file a monthly and yearly return indicating its monthly/yearly production, clearance and royalty paid on mineral extracted under Rule 45 of MCD Rules.

We noticed that the Department merely collects the returns and had not made any effort to scrutinise any return submitted by the lessees. Thus, the purpose for the submission of the returns was defeated. There was no mechanism at the apex level to ensure the correctness of the figures furnished by the lessees. Audit scrutinised the annual returns and found short/non or delay in collection of royalty and rent as mentioned in following paragraphs.

(a) Short payment of royalty

The rate of royalty is calculated in accordance with a formula¹³ prescribed in Rule 64D(1)(i) & (iv) of the MC Rules, 1960. The rate of royalty depends on the contents on the aluminium metal in the ore, dollar rupee exchange rate, sale price of bauxite/aluminium *etc.*

¹² Kolhapur, Raigad and Yavatmal

¹³ As per Rule 64D(1)(i) of the Mineral Concession Rules, 1960

Royalty = Sale price of mineral published by IBM X Rate of royalty (in percentage) X Total quantity of mineral produced/dispatched.

As per Rule 64D(1)(iv) of the Mineral Concessions Rules, 1960

Royalty = (52.9/100) X Percentage of Al₂O₃ in the bauxite X Average monthly price of aluminium as published by the IBM X Rupee/dollar exchange rate (selling) X Rate of royalty (in percentage)

Scrutiny of the annual returns of the seven lessees revealed that the royalty of ₹ 6.54 crore was paid short as mentioned in **Table 7.2.2.7 (a)**.

Table 7.2.2.7 (a)

(in ₹)					
Sr. No.	Name of the lessee	Year of Annual Return	Royalty Payable	Royalty Paid	Royalty Short Paid
1	M/s Shivram Minerals (Burumbal, Taluka Shahuwadi)	2012-13	1,17,62,150	1,02,85,291	14,76,859
		2013-14	1,08,78,725	1,08,59,122	19,603
2	M/s Bharatesh Construction Company. (Girgaon/Yelwan Jugai-Shahuwadi)	2013-14	3,37,74,666	3,30,000	3,34,44,666
3	M/s Bharatesh Construction Company (Moolvelas-Harvit-Kudgaon, Shrivardhan)	2012-13	25,60,774	14,28,778	11,31,996
		2013-14	34,19,452	4,31,000	29,88,452
4	M/s Alatge Stone Crushing Industries (Danda - Bagmandala-Saigaon, Shrivardhan)	2012-13	64,34,497	30,00,000	34,34,497
		2013-14	52,91,251	15,00,000	37,91,251
5	Manohar V. Daryanani (Meghare Shrivardhan)	2013-14	62,68,246	35,00,000	27,68,246
6	M/s Ashapura Minechem Ltd (Rovale Bauxite Mines)	2013-14	3,04,28,394	2,15,00,000	89,28,394
7	M/s Ashapura Minechem Ltd (Umbarshet Bauxite Mines)	2013-14	2,39,63,904	1,65,50,000	74,13,904
Total			13,47,82,059	6,93,84,191	6,53,97,868

In the exit conference, the Principal Secretary, IE&LD accepted the fact of non-assessment of returns by DMO and stated that recovery of ₹ 32 lakh was made from two lessees and action in remaining cases would be taken.

The above short levy was only in respect of the returns for the periods made available to audit. The Department may consider examining all the returns and find the correctness of royalty paid. The Department may also develop a system for prompt verification of the returns submitted by the lessees.

(b) Non-payment of interest

In case of late payment of royalty, interest at the rate of 24 *per cent* is payable as per Rule 64A of MC Rule, 1960.

The Department had also not maintained the records properly to ensure timely payment of the royalty. In absence of the records the audit could not ascertain the timely payment of royalty in all cases except one in which all the documents were found. A perusal of the file revealed that the lessee¹⁴ had delayed the payment by 3 days to 113 days and he was liable to pay interest of ₹ 20.91 lakh for late payment of royalty aggregating to ₹ 14.38 crore.

¹⁴ M/s Bharatesh Construction Company, Kolhapur

It is recommended that the Department may consider maintaining the records and ensuring levy of interest wherever payment of royalty is delayed.

In the exit conference, Principal Secretary, IE&LD accepted the facts and intimated that notice for recovery of ₹ 20.90 lakh has been issued by DMO, Kolhapur.

(c) Non-recovery of Dead Rent and Surface Rent

As per the Section 9A (1) of the MMDR Act, every lessee of a mining lease has to pay every year, dead rent in advance for the whole year at the rates prescribed in Schedule-III. Rule 28(1) of the MC Rule, 1960 stipulate that if the mining operations are not commenced within one year from the date of execution of lease or is discontinued for a continuous period of one year after commencement of operation the GoM shall declare the mining leases as lapsed and communicate the same to the lessee. Further Rule 27(1) (d) of MC Ruls, 1960 stipulates that the lessee shall pay, for the surface area used by him for the purposes of mining operations, surface rent at such rate, not exceeding the land revenue.

(i) Dead Rent: We noticed that in Yavatmal and Kolhapur districts, DMO did not recover dead rent of ₹ 82.92 lakh from 26 leases which were non operative for the period ranging between one to 16 years. The lessees had remained un-operative for the period of one to 16 years even then the leases were not lapsed by the Government. After this was pointed out, the DGM intimated that reasons for not declaring the lapse of leases have been called from the DMOs. In Chandrapur, details of dead rent recoverable in 6 limestone mines which are non-operative were awaited.

In the exit conference, Principal Secretary, IE&LD stated that dead rent would be recovered.

(ii) Surface Rent: In 21 cases of Yavatmal district, surface rent of ₹ 2.19 crore under Rule 27(1)(d) of MC Rules 1960 was neither paid by the lessee nor was demanded by the DMO.

In the exit conference, Principal Secretary, IE&LD stated to recover the amount as per rule.

7.2.3 Minor Mineral

Minor minerals comprise of sand, stones, murum, ordinary clay etc. Of these minerals the identification of sand ghats has been done and Sand Policy of 2010 has been replaced by Sand Policy of 2013. There is no policy for extraction of other minor minerals like stone, murum etc. Prior to 2013 the mining operations of minor mineral could be done without the mining plan, while environment clearance was needed for extraction of mineral from 2012.

7.2.3.1 Management of resources minor mineral

(a) Absence of centralized data for minor mineral except sand and policy thereof.

The GoM does not have a centralized data about quantum of minor mineral (other than sand) and location thereof as a result the management of the minor

mineral could not be effectively monitored as mentioned in a few cases detailed below.

In the exit conference, Principal Secretary, R&FD (November 2015) stated that a database for all the minor minerals will be created/established properly for which directions will be issued to DGM.

(i) Precious/Semi-precious stones

Our internet search (www.mindat.org, www.iRocks.com) indicated presence of precious/semiprecious¹⁵ stone like Cavansite, Pentagonite in Wagholi situated in Tahsil Haveli, District Pune. The Department intimated that it was not aware of the presence of this precious/semi-precious stone. This indicated that there is a lack of prospecting of minor mineral.

In the exit conference, Principal Secretary, R&FD (November 2015) stated that the matter regarding the extraction of the precious/semi-precious stone would be examined and investigated by DGM.

(ii) Stones excavated during hill cutting

No data in respect of the mineral excavated from hill cutting was maintained by the Department. The State Environment Department has also found that there is no restriction on hill cutting which needs to be decided. Districts have no definite mapping of stone quarries, reserves of minor mineral, systematic plan for judicious use of mineral resources.

In the exit conference, the Principal Secretary, R&FD stated that the Department would identify stone quarries at district level. He further stated that though there is no policy on mining in hilly areas, suitable policy would be framed and rules would be prescribed for defining and exploring hills for quarrying purposes.

(iii) Measurement of quarry lease and quarrying permit

Quarterly returns of mineral production and payment of royalty thereof are submitted to the DMO. However, there is no system in the DMO offices to check the quantity actually extracted from the quarry vis-a-vis shown in the returns. Instruments like Electronic Total Stations (ETS) required for measuring the mineral excavated from the pit were not available with the Department. No norms were found on records to indicate conducting of regular inspections of quarries by the Department.

The inspection of the quarries for detecting illegal extraction was done in accordance with the High Court directions (September 2014). Based on these direction the Department has levied ₹ 36.28 crore of royalty including penalty in 751 cases.

Thus, it would be in the interest of revenue if a policy for minor mineral is framed which inter-alia may include regular inspection of quarry, periodical measurement of quarry area and assessment of royalty.

In the exit conference, the Principal Secretary, R&FD stated that the provision for annual measurements through ETS would be incorporated in the rules.

¹⁵ Cost of stone viz. Cavansite of miniature 5.5 x 3.6 x 2 cm at \$ 2,750 i.e. ₹ 1,65,000 (approx) as per site www.iRocks.com

7.2.3.2 Short/non-recovery of royalty

The R&FD revised (February 2010) rates of royalty for ordinary earth used for filling or leveling purpose in construction of embankment, roads, railway and building the rate was enhanced to ₹ 200 per brass from ₹ 100 per brass.

- In SDO, Alibag of Raigad district, it was noticed that the Executive Engineer, (EE) Irrigation Division, Kolad deducted (June 2010) royalty at pre-revised rate for 3.44 lakh brass amounting to ₹ 3.44 crore as against ₹ 6.88 crore from the contractor M/s. F.A. Enterprises, Mumbai towards the work of Balganga River Medium Project. This has resulted in short recovery of royalty of ₹ 3.44 crore. Moreover, royalty of ₹ one crore was only credited to Government and amount of ₹ 5.88 crore is outstanding.
- In Niphad Tahsil of Nashik district, royalty for the period 2010-11 from 22 works of Gaon Talav, was collected of ₹ 41.26 lakh at pre-revised rate and was lying with Maharashtra Water Conservation Corporation (MWCC), Aurangabad. The royalty recoverable as per revised rate was ₹ 82.52 lakh. The revenue authority may pursue the recovery from MWCC at correct rate and its deposit in treasury.
- In three Tahsils¹⁶, royalty of ₹ 1.45 crore for the year 2011-12 to 2013-14 though deducted by executing agencies¹⁷ from contractors, however, the same was neither credited to Government nor demanded by the revenue authority responsible for collection.

In the exit conference, the Principal Secretary, R&FD agreed to issue Government Resolution to address the issue.

7.2.3.3 Short/non-recovery of penalty

As per rule 48(7) of the MLR Code penalty not exceeding three times the market value of the mineral illegally removed or disposed off is required to be levied.

We noticed in Kolhapur and Thane districts, that Department during inspection had detected 46 cases of illegal extraction of 1.16 lakh brass clay. The penalty was to be recovered at the rate of mineral mentioned in District Scheduled of Rate. However Audit found that:-

- In Thane, in five cases neither royalty of ₹ 2.08 crore nor penalty of ₹ 6.35 crore was recovered while
- In Kolhapur, though royalty was recovered penalty amounting to ₹ 58.59 lakh was leviable but only ₹ 13.99 lakh were levied and recovered resulting in short realisation of penalty of ₹ 44.60 lakh.

In the exit conference, the Principal Secretary, R&FD stated that all the cases would be examined. In respect of levy of penalty at market rate it was stated that the Government would examine the legal feasibility of issuing an advisory for arriving market rate of minerals.

¹⁶ Tahsildar, Daund, Karjat and Vasai

¹⁷ Executive Engineer (EE), PWD, Pune, EE, PWD Kolad Raigad and EE, Thane

7.2.3.4 Lease rent and Compensation or Occupancy price

R&FD, GR (July 1999/May 2006) provides levy of lease rent on allotment of government land at Prime Lending Rate (PLR) of State Bank of India (SBI) on market value of the land worked out as per Annual Statement of Rates (ASR) as on the date of order. The PLR (SBI) for the year 2014 was 10 *per cent*.

We noticed that Government land were allotted for 28 leases of minor mineral and 13 leases of major mineral in four¹⁸ of the nine districts test checked. Lease rent of ₹ 12.90 crore for the calendar year 2014 alone was not levied by the concerned Collectors on Government land leased out for mining activities.

In the exit conference, the Principal Secretary, R&FD stated that applicability of GR (July 1999) for levy of lease rent on the Government land allotted for mining activities would be examined.

7.2.3.5 Absence of data at apex level

The total number of sand ghats were not made readily available with R&FD. It was intimated that the information will be called from DGM and will produce to audit.

(a) Identification and auction of sand ghats

The position regarding identification and auction of sand ghats in respect of nine districts¹⁹ collected by audit is mentioned in the **Table 7.2.3.5 (a)**.

Table 7.2.3.5 (a)

Year	Total no. of sand ghat identified	Number of sand ghat auctioned	Number of sand ghat not disposed off
2010-11	797	485	312
2011-12	1,296	570	726
2012-13	503	251	252
2013-14	500	192	308
Total	3,096	1,498	1,598

(Source: Information furnished by DMO)

Thus, it would be seen from the above that 3,096 sand ghats were identified during 2010-14 which was a commendable effort by the Department. The decrease in number of sand ghats during 2012-13 and 2013-14 was due to the consolidation of all adjacent ghats falling within a radius of one kilometer into one sand ghat.

(b) Non-auction of sand ghats

It can be seen from the **Table 7.2.3.5 (a)** that 52 *per cent* of the sand ghats remained un-disposed off. The upset price fixed in respect of these ghats was ₹ 994.90 crore. Non-auction of ghats at such a large scale affects the state revenue adversely. The Department may consider reviewing the system of

¹⁸ Raigad, Chandrapur, Yavatmal and Nagpur

¹⁹ Chandrapur, Kolhapur, Nagpur, Nasik, Pune, Raigad, Satara, Thane and Yavatmal

auction of ghats in such a manner that auction of maximum number of ghats is possible.

In addition to the above, we noticed a number of sand ghats that were identified for auction but could not be put to auction as mentioned in the following paragraphs.

(c) Environmental Clearances for auction

As per the GR dated 12 March 2013 issued for disposal of sand ghats the process of survey and identification should be completed by 15th October. Thereafter, EC is required to be obtained for which no time limit has been provided under the policy.

- In Kolhapur and Nagpur districts, 122 sand ghats²⁰ were not put to auction during 2012-14 as EC was not received in time. This was due to non-furnishing essential details like depth of the sand and water, approval for use of suction pump, area and distance between the block/cluster and discrepancies in the power point presentation, survey report to Environment Department by the Collectors. In addition to this in 16 cases of Nagpur, Environment Department further delayed the process by three months. As a result the revenue of ₹ 24.88 crore²¹ from 122 sand ghats could not be tapped.
- Environment Impact Assessment (EIA) is required to be conducted by Environment Department of the State Government in respect of dredging²² and a report in this regard is required to be submitted to the Collector for auction of the sand ghats. In Thane, out of 11 sand ghats, nine sand ghats were marked (February 2013) for extraction of sand by dredging. The work for EIA was entrusted to a private firm “Fine Envirotech Engineers (Accredited Environment Consultant in Dredging)” in April 2013, however, the firm has not submitted the report till date (June 2015) and ghats could not be auctioned. The potential revenue involved in these sand ghats amounting to ₹ 72.25 crore for 2012-14 could not be tapped.

In the exit conference, the Principal Secretary, R&FD stated that the cases will be examined. It was also stated that in view of judgment passed by the National Green Tribunal in June 2014, the issue relating to dredging and environment was entrusted to Maharashtra Maritime Board and Collector will supervise the process of auction of sand. In case of Kolhapur and Nagpur, it was stated that due to imposing the condition of obtaining EC before auction of sand ghats for the first time in the state these two districts could not comply the same in time, however in subsequent years the EC's were obtained in time.

(d) Lack of infrastructure

As per GR of R&FD (October 2010) for “Sand Policy,” Collector should ensure the availability of approach road to the sand ghat while identifying it.

²⁰ Kolhapur: 106 sand ghats and Nagpur: 16 sand ghats

²¹ Kolhapur: ₹ 15.75 crore (upset price of 106 ghats) and Nagpur: ₹ 9.13 crore (upset price of 16 sand ghats)

²² Dredging means a mechanical extraction of sand or sediments for clearance of navigation channels

- Two sand ghats²³ in Nagpur were auctioned for ₹ 1.76 crore during 2012-2013. However, the lessee intimated that the sand could not be extracted as original road proposed for transportation of sand was passing through reserved forest, which was banned. Though, as per records, alternate road was offered by a private person, it was not made available to lessee for extraction of sand. As a result, the Government could not earn the revenue of ₹ 1.76 crore towards the royalty.

In the exit conference, the Principal Secretary, R&FD stated that the matter will be taken up with the Collector for appropriate action.

- In Nasik five sand ghats auctioned in 2011-12 for ₹ 96.79 lakh, were cancelled due to non-depositing of bid amount by bidders. The sand ghats were not re-auctioned. As a result the revenue of ₹ 76.80 lakh²⁴ could not be generated after adjusting ₹ 21.92 lakh paid by the licensee in advance.

In reply DMO, Nasik, stated (May 2015) that the bidders were black listed. However, no reasons for sand ghats not re-auctioned were furnished.

In the exit conference, the Principal Secretary, R&FD agreed to examine the cases and to take appropriate action as required.

7.2.3.6 Absence of a system for ascertaining the actual quantity of the sand extracted after allotment of sand ghats

As per the GR for disposal of sand, the Ground Water Survey and Development Agency (GSDA), DMO and concerned Tahsildar are required to conduct a joint survey to ascertain the quantity of sand and its effects on water level in the vicinity of the ghats. Thus, the policy envisaged that quantity of sand available at the time of allotment but it does not envisage any check on the extraction of the sand after its allotment. This lacuna in the policy had led to a number of illegal extractions mentioned in the following paragraphs.

- In 37 cases of three²⁵ districts, cases of excess transportation of sand by the allottee were reported by the RTO between December 2011 and July 2014, those were penalized for carrying load in trucks in excess of the Transit Pass issued to them by the Collector. Thus, the possibility of excess excavation than the permissible limit in the sand ghats allotted to them or by encroaching other sand ghats could not be ruled out.
- In two cases in Nagpur district, Tahsildar, Saoner, through joint inspections (January 2012) pointed out the excess quantity extracted by the allottees and penalized for violations and issued notice for recovery.

Thus, the above cases indicates that there is a need of periodical measurements of sand ghats to avoid illegal extraction of sand and the Government may consider framing a scientific system for periodic measurement of sand ghat.

In the exit conference, the Principal Secretary, R&FD stated that the procedure for arriving at quantity of sand in the ghat at the beginning is not scientific

²³ Saholi A1 & A2, Taluka –Parseoni, Nagpur

²⁴ [(₹ 96.79 lakh – ₹ 21.92 lakh amount deposited by bidder) + Environment Cess : ₹ 1.93 lakh]

²⁵ Chandrapur, Nagpur and Yavatmal

which could not take care of deposition of sand in contours hence Government is proposing measurement of sand ghats at handing over stage through scientific methods and also proposing for installation of video surveillance system at sand ghats which will address the issue of excess/illegal extraction of sand.

7.2.3.7 Lack of information sharing between Revenue Department, Regional Transport Officer (RTO) and Police - cases of illegal transportation of minerals

As per the instructions given by R&FD (June 2002), FIR may be lodged against person indulged in illegal activities, the licences of the truck driver may be cancelled and the vehicles may be suspended for six months for transportation purposes and also the penalty shall be levied at 3 times of the market value or ₹ 3,000 per brass for such illegal mineral transported. R&FD instructed (February 2011) for strict action against illegal extraction and transportation of sand and cross reporting of such instances among RTO, Police and Revenue Department. Clause C 28 of the Sand Policy issued in October 2010 and March 2013 stipulates that in case of vehicle carrying mineral in excess of permitted quantity, the entire quantity shall be treated as illegal.

In nine districts²⁶ information of overloaded vehicles transporting minerals was collected from the concerned RTOs wherever it was available/complete. It was cross-verified with Collector offices and cases of illegal extraction/transportation referred by RTOs/Police to the Collectors were scrutinised. We noticed that there was either lack of co-ordination or absence of co-ordination between the three departments in checking/preventing the illegal transportation of minor minerals. This hampered the collection of revenue in the State, a few cases are mentioned in the following paragraphs.

- **Practice of referring the cases of overloading to the Collectors:-** We found that 157 cases booked by RTO in seven²⁷ districts were not referred to the concerned Collectors at all. The transportation of entire quantity of 758.50 brass of mineral in above cases was to be declared as illegal mining in accordance with paragraph No. C 28 of the Sand Policy issued in October 2010 and March 2013. Since the cases were not referred to the Collector, he could not take any action for levy of royalty and penalty. Thus, lack of coordination between RTO and Collector resulted in non levy of penalty amounting to ₹ 24.27 lakh.
- **Practice of referring the cases of excess transportation to the RTO:-** In Chandrapur, cases of illegal transportation of mineral carrying in 10 trucks were penalized by revenue authority but were not referred to RTO for initiating action for overloading if any.

In Yavatmal district the practice of referring of overloading cases to the Collector is being followed and the penalty of overloaded vehicles is levied accordingly. No case referred by the RTO to Collector, Raigad, was found on record. However, RTO, Raigad did not furnish any information

²⁶ Chandrapur, Kolhapur, Nagpur, Nasik, Pune, Raigad, Satara, Thane and Yavatmal

²⁷ Chandrapur, Kolhapur, Nagpur, Nasik, Pune, Satara and Thane

regarding the overloading of vehicles in the mining activities as such the leviable penalty could not be ascertained.

- **Non-furnishing of information by RTO/Police:-** Four revenue authorities²⁸ had detected cases carrying minor minerals in 114 trucks which were either without transit pass or in excess of transit pass. The trucks, however, managed to escape but registration numbers of these trucks were recorded and were sent to concern RTOs to ascertain their name and address of the vehicles carrying the sand. But the RTO did not furnish the information to the respective Collectorate. It was further noticed that the Collector after referring the cases to the RTOs had not pursued the matter for obtaining the same. In one case in Nasik, Police Department referred (January 2011) the case of overloading of sand by 4.41 brass to the RTO for levying penalty under MVT Act. The RTO Nasik requested (January 2011) to the Police Department to coordinate with revenue authorities for recovery of royalty and penalty. The RTO and police did not refer the matter to revenue authorities hence no action has been taken by the Collectorate.
- A social activist had furnished a list of 1,033 trucks carrying sand illegally extracted to the Collector, Thane. The list was forwarded to RTO Thane, New Mumbai and Vasai in March 2013 for ascertaining the name and address of the truck owners. Of these, RTO, Thane could furnish the details of 318 truck owners only. The Collector, Thane, issued show cause notices to these truck owners in June 2013. Further action taken had not been intimated. However, remaining two RTOs did not furnish the required information nor was it pursued by the Collector.
- The Police Department had intimated (August 2013) illegal transportation of 24 trucks of sand to the Tahsildar, Haveli, Pune. There after no action was taken by Tahsildar. After being pointed out (July 2015) the Tahsildar replied the cases will be referred to RTOs and name and address of the vehicles will be obtained. There after action against the illegal transportation will be taken.
- **Illegal transportation of sand from other district/state:-** In two²⁹ test checked districts, information collected from RTO revealed that 24 cases of illegal transportation of mineral booked by RTO pertained to other districts/state³⁰. These cases³¹ were not referred to the concerned DMOs of the districts/state that had issued TPs for taking action against the sand ghat allottees to whom the TPs were issued.
- In Alibag, Tahsildar seized (January 2013) 288.44 brass of sand on account of illegal extraction at the site. The Department did not take any action to find out the person involved in illegal extraction of sand and no FIR was filed.

²⁸ Thane, Nasik, Pune and Chandrapur

²⁹ Nagpur and Yavatmal

³⁰ Amravati, Bhandara, Chandrapur, Nanded, Wardha Districts of Maharashtra and Madhya Pradesh

³¹ 16 cases of DMO, Nagpur and 8 cases of DMO, Yavatmal

The above fact indicates that there is a need for co-ordination between the revenue authorities, RTOs and Police Department to prevent illegal extraction and transportation of sand and other minerals. The Department may consider taking the matter with other departments and for evolving a system of coordination for them.

In the exit conference, the Principal Secretary, R&FD stated that Government Resolution is being issued in which issues raised regarding need of co-ordination with the revenue authorities, RTO and Police would be incorporated.

7.2.3.8 Refund of auction amount of sand ghat

As per GR of R&FD (March 2003) "Sand Policy" proportionate refund³² of sand auction amount is admissible for the period of cancellation or ban on mining in sand ghat.

In one sand ghat³³ mining operations were suspended for 36 days from 23.09.2010 to 28.10.2010 on the orders of High Court and thereafter the mining operations were resumed. The Department incorrectly worked out the amount of refund as ₹ 46.50 lakh and allowed the same. The refund for these non-working days amounted to ₹ 11.35³⁴ lakh only admissible, thus, an amount of ₹ 35.15 lakh was incorrectly refunded.

In the exit conference, Principal Secretary, R&FD stated that the matter would be examined and appropriate action would be taken as required under Rules.

7.2.3.9 Non-payment of stamp duty on instruments executed for extraction of minerals

Article 36 of the Maharashtra Stamp Act, 1958 provides that where a lease purports to be for a period not exceeding five years, duty is leviable at the rates of three *per cent* of the ten *per cent* of market value. Bid value of the lease is taken as market value for the purpose of levying stamp duty.

- In six³⁵ districts, records related to auction of sand ghats for the period 2012-13 and 2013-14 revealed that 448 sand ghats were leased for bid amount of ₹ 106.13 crore on which stamp duty of ₹ 31.84 lakh was payable. However, the same was neither levied nor paid.
- Similarly, in two³⁶ districts, in case of 13 leases of minor mineral, stamp duty of ₹ 2.50 lakh and registration fees of ₹ 0.83 lakh was not paid on market value of ₹ 8.32 crore in respect of lease deed executed.
- In Nagpur, in case of 14 leases of minor minerals, stamp duty of ₹ 40.18 lakh and registration fees of ₹ 5.27 lakh was short paid on market value of ₹ 1,361.75 lakh in respect of lease deed executed.

³² (Auction Amount/Period allotted for sand extraction) x Number of days for which mining was banned

³³ Sand ghat at *mouze* Itan, Taluka Mohadi, District Bhandara in 2010-11

³⁴ 31,530 x 36 days (23-9-2010 to 28-10-2010)

³⁵ Chandrapur, Kolhapur, Nasik, Pune, Satara and Yavatmal.

³⁶ Chandrapur and Yavatmal

In the exit conference, the Principal Secretary, R&FD stated that instructions will be issued for levy of stamp duty on the instrument executed for extraction of sand.

7.2.3.10 Environmental Study

(a) Permission for extraction of sand without EIA study

EIA is a process, used to identify the environmental, social and economic impacts of a project prior to decision-making. It aims at predicting environmental impacts at an early stage of project planning and design, find ways and means to reduce adverse impacts, shape projects to suit the local environment and present the predictions and options to decision makers. EIA systematically examines both beneficial and adverse consequences of the proposed project and ensures that these impacts are taken into account during the project design. By considering environmental effects and mitigation early in the project planning cycle, there are many benefits, such as protection of the environment, optimum utilization of resources and saving overall time and cost of the project. Coastal Regulation Zone (CRZ) Notification (January 2011) issued by MoEF prohibited the activity of land reclamation, bunding or disturbing the natural course of sea water in CRZ except maintenance or clearing of water ways, channels and ports based on EIA studies.

In Thane district, permits were granted during 2011-12 to Mahalaxmi Industrial Manufacturer Co-operative Society for extraction of sand or sand mix clay of 3.48 lakh brass on payment of royalty ₹ 20.56 crore by using suction pump by mechanical method without EIA study. The environmental impact of such huge extraction i.e. 3.48 lakh brass of sand, thus, was not assessed before granting permissions which was in violation of CRZ notification.

In the exit conference, the Principal Secretary, R&FD stated that the case would be examined and further stated that Government has framed a policy (May 2015) wherein the issues including the environment have been taken into consideration.

(b) Grant of temporary permit without District Mining Plan (DMP)

The short term quarry permit was to be granted in accordance with the DMP. In four districts³⁷ 126 temporary permits were granted without DMP for extraction of 7.29 lakh brass of minor mineral between November 2013 and January 2015 which was incorrect. The Collectors of Chandrapur and Raigad did not furnish information regarding preparation of DMP and issue of temporary permits accordingly.

In the exit conference, Principal Secretary, R&FD stated that the matter regarding the preparation of DMP would be examined.

(c) Short recovery of Environmental Cess

GR dated 25.10.2010 for disposal of sand read with R&FD letter dated 14.1.2011 stipulates that Environmental Cess at two *per cent* of auction amount shall be collected from successful bidder of the sand ghat.

³⁷ Nagpur, Pune, Satara and Thane

In R&FD (May 2013) it was noticed that an amount of ₹ 390.65 crore was realised during the year 2011-13 from auction of sand ghats on which, environment cess of ₹ 7.81 crore was recoverable against which ₹ 6.02 crore was only recovered which resulted in short recovery of ₹ 1.79 crore. One of the reasons for short recovery was noticed in Pune district that cess was levied on the quantum of sand in the ghat calculated at royalty rate of ₹ 200 per brass and not on the auction amount of sand ghat.

In the exit conference, the Principal Secretary, R&FD agreed to examine the matter and take appropriate action as per law.

7.2.3.11 Non-recovery of Surface Rent

As per Section 18 (iii) of Maharashtra Minor Mineral Extraction Rule 1955, the lessee shall also pay, for the surface area used by him for the purpose of the quarry/mining, surface rent at such rate, not exceeding the land revenue and cess assessable on the land.

- In Pune district, surface rent ₹ 78.27 lakh was not recovered from 66 lessees for the period from August 2009 to July 2014. The DMO did not raise any demand.
- In Thane district, the City and Industrial Development Corporation (CIDCO) intimated (May 2015) to Additional Collector, Thane, that it has recovered surface rent and environment cess for the period from October 2006 to September 2016 from 86 quarry lease holders functioning on the land with CIDCO. Neither CIDCO intimated the amount and deposited in treasury nor did the Collector demand the same.

In the exit conference, the Principal Secretary, R&FD stated that cases will be examined.

7.2.4 Conclusions and Recommendations

The Performance Audit on systems and controls in collection of mineral receipts revealed a number of system and compliance deficiencies.

The lessees had extracted mineral either in excess of the Mining Plan or without the approval of Mining scheme, there was no coordination between the DGM, MoEF and IBM (GOI) to have a common ceiling for extraction/production of the mineral. The quantity mentioned in EC was at variance with the quantity mentioned in the scheme of mining and the quantity actually extracted by the lessees.

- **The Government may devise a system of co-ordination between the concerned departments responsible for fixing the ceiling limit of the mineral and ensure that a uniform target is fixed and is being monitored in the extraction of minerals in accordance with the approved mining plan or scheme.**

The Government did not maintain the databank of the quantum of minor mineral and location thereof. There was no system of periodical measurement of quarries and sand ghats allotted, consequently the quantum of mineral extracted and royalty paid thereof could not be ascertained.

- **The Government may prepare a database/databank indicating the areas of minor mineral and the quantum of minor mineral available thereof and may devise a system for periodic measurement of quarries and sand ghats after its allotment.**

There was no information sharing between RTO, Police and Revenue Department to check and prevent the illegal transportation of mineral.

- **The Government may devise suitable mechanism for information sharing between RTO, Police and Revenue Department for checking illegal transportation of minerals.**



(MEENAKSHI MISHRA)
Principal Accountant General (Audit)-I,
Maharashtra

Mumbai
The 13 March, 2016

Countersigned



(SHASHI KANT SHARMA)
Comptroller and Auditor General of India

New Delhi
The 14 March, 2016